

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5815 of 1995

with

SPECIAL CIVIL APPLICATION No 6257 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AYOHANNAGAR COOP HSG SOC LTD

Versus

STATE OF GUJARAT

Appearance:

Special C.A.5815/95.

MR KS JHAVERI for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

SERVED BY DS for Respondent No. 2

REFUSED for Respondent No. 3

MR MI PATEL for Respondent No. 4, 5, 6, 7, 8

Special C.A.6257/95

Mr M.I. Patel for the petitioner

Mr B.B. Naik for respondent No.2

Mr A.G.Uraizee, AGP, for respondents Nos.2 & 3.

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 13/03/96

ORAL JUDGEMENT

Both these petitions raise identical questions and therefore upon the joint request made by the learned counsel appearing for the parties, are being disposed of by this common judgment.

2. In both the petitions, the challenge is against the order dated 19th May, 1995 passed by the Secretary (Appeals), Revenue Department, State of Gujarat, Ahmedabad. The revision before respondent No.1 came to be allowed and the two orders passed by the Taluka Development Officer, Gandevi dated 16th August 1977 came to be quashed. It was also observed that further proceedings could be taken as per the final decision in Special Civil Application No.9159/93 which is unconditionally withdrawn today.

3. By virtue of the said order of the Secretary (Appeals), Revenue Department, the permission for non-agricultural purpose granted came to be revoked after more than 17 years. It is a settled proposition of law that exercise of power in a sou motu revision could be within a reasonable time. In the facts of the present case, it cannot be said for a moment that the period of 17 years was reasonable in quashing the permission granted for non-agricultural purpose. This proposition of law has rightly not been contested by the learned counsel appearing for the contesting respondents. Learned counsel Mr Naik has also fairly stated that in view of the settlement between the parties, the petitions may be allowed by consent also.

4. Having regard to the aforesaid facts and circumstances and the aforesaid fair submission, the petitions are allowed quashing the impugned order dated 19th May, 1995 as at annexure 'C' in both the petitions with no order as to costs. Rule is made absolute to the aforesaid extent in both the petitions.

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